IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY FOURTH DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE GHULAM MOHAMMED

WRIT PETITION NO : 22691 of 1994

Between:

1 Akuri Gopi, S/o Subbarao,
APST Co-operative Finance Corporation Ltd., R/o 9/212,
Balaramunipet, Machilipatnam.
2 Yelamarthi Veera Venkateswara Rao, S/o Y.V.V.Rao,
Edipalli, Machilipatnam,
Krishna dist.
3 Dola Arun Prakash, S/o Dasarathi,
Buttaipet, Machilipatnam,
4 Maganti Veeraswamy, S/o Dharamaraju,
Disrtict Tribal Welfare Office, R/o RTC Colony,
Machilipatnam.
5 Kolusu Venkata Swamy, S/o Dharamaju,
R/o Circle Post, Machilipatnam.
6 Eda Rajagopala Rao, S/o Srinivasa Rao,
R/o Parasuramannapet, Machilipatnam,
Krishna Dist.,
7 Mopidevi Subba Rao, S/o Subba Rao,
R/o Edipalli, Machilipatnam,
Krishna dist.

..... PETITIONERS

AND

1 The Chairman & District Collector,
APST., Co-operative Finance Corporation Ltd.,
Chilakalapudi, Machilipatnam.
2 The District Tribal Welfare Officer,
District Welfare Office, Machilipatnam.
Krishna dist.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or orders more particularly one in the nature of writ or Mandamus, declaring the action of the respondents in terminating the services of the petitioners in proceedings Rc.no.A1/2994/92, dated 15-9-1993 issued by the 2nd respondent as being illegal, arbitrary, unconstitutional and set aside the same consequently direct the respondent to dispose of the representation dated 16.8.94 and to give all consequential benefits which the petitioners are entitled.

Counsel for the Petitioners: MR.K.VENKATESWARLU

Counsel for the Respondents: GP FOR SOCIAL WELFARE

The Court made the following :

ORDER:

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This writ petition is filed seeking to issue a writ of *Mandamus* declaring the action of the 1st respondent in terminating the services of the petitioners vide proceedings Rc.No.A1/2994 of 1992, dated 15-09-1998, as being illegal, arbitrary, unconstitutional and to set aside the same, and consequently direct the respondents to dispose of the representation dated 16-08-1994 made by the petitioners.

2. The case of the petitioners is that they were appointed by the District Tribal Welfare Officer, second respondent herein, in the year 1991 as Section Writer, Record Assistants etc. When the respondents tried to terminate the services of the petitioners from their respective posts without any notice, they approached this Court by way of writ petition being W.P.No.5243 of 1993 seeking certain directions. This Court while admitting the said writ petition by order dated 22-04-1993 directed the respondents to continue the petitioners in their respective posts. The respondents filed W.V.M.P. No.723 of 1993 to vacate the orders dated 22-04-1993, but the same was dismissed and the interim stay was made absolute by order dated 30-04-1993. Aggrieved by the order dated 30-04-1993, respondents filed W.A.No.552 of 1993 wherein the order dated 30-04-1993 was suspended. Ultimately, the writ appeal along with the writ petition was disposed of by a common order dated 08-07-1993 observing that the termination of the petitioners amounts to violation of Section 25-FF of Industrial Disputes Act, 1947 and accordingly directed the respondents to continue the petitioners in service, and if the petitioners found to be surplus, until orders to that effect are passed, they were directed to be continued in service. As the respondents did not take any action pursuant to the orders of this Court, dated 08-07-1993, the petitioners filed contempt case being C.C.No.564 of 1993 to implement the order dated 08-07-1993 passed by the Division Bench of this Court.

3. On 16-02-1994, the Contempt Case was disposed of by this Court leaving open to the petitioners to agitate the proceedings under Sections 2 and 2-A of the Industrial Disputes Act or any other proceedings that are available under law. Pursuant to the said directions, the present writ petition has been filed.

4. Learned counsel for the petitioners submits that the petitioners were selected by the District Selection Committee, Krishna, and from the date of appointment to the date of termination they worked to the utmost satisfaction of their superiors and though the petitioners put in about 2½ years service without any break, their services were terminated illegally to accommodate the respondents' own candidates. Learned counsel further contends that the 6th petitioner herein and some other juniors have been continuing in service illegally, though the other

petitioners were terminated as such seeks to declare the order dated 15-09-1993 as illegal and to direct the respondents to dispose of the representation dated 16-08-1994 filed by them.

5 . In the counter affidavit filed by the second respondent, while denying the averments made in the writ-affidavit filed in support of the writ petition, it was stated that the second respondent office has got only five sanctioned posts and under which regular persons were already appointed. It was further stated that the appointments of the petitioners were made without there being any sanctioned posts and without permission of the competent authority and as such the termination order passed dispensing with the services of the petitioners does not warrant any interference and the question of continuation of their services cannot be considered.

6 . Heard the learned counsel for the petitioners and the learned Government Pleader appearing for the respondents.

7 . In the counter-affidavit filed by the second respondent it is admitted that the petitioners were irregularly appointed without obtaining permission of the competent authority. The petitioners, though, alleged to have worked for more than 2 ½ years in their respective posts without any break, could not substantiate the same by producing any appointment orders. It is not the case of the petitioners that they were appointed after following the due procedure contemplated under the relevant Rules. On the other hand, it is the specific case of the respondents that the five sanctioned posts of different categories have been filled up with suitable candidates after following due procedure. It was categorically denied that the petitioners were selected by the District Selection Committee.

8. No illegality or irregularity is neither demonstrated nor pointed out to declare the proceedings Rc.No.A1/2994/92 dated 15-09-1993 passed by the first respondent dispensing with the services of the petitioners as illegal or arbitrary. Mere statement of the petitioners that they have worked for more than 2 ½ years without break will not itself sufficient to issue a Mandamus for continuance of their services. Even

though if it is accepted that they have worked as daily wage workers, they cannot seek continuation of their services as a matter of right, in the absence of any statute or law or orders of appointment appointing them as such entitling them for such continuation. The perusal of the impugned order disclose that they were paid compensation for the period they worked at the rate of fifteen days wages per annum plus other amounts as are applicable to them.

9 . In the circumstances, I do not find any merit in the writ petition and it is, accordingly, dismissed. No costs.

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GHULAM MOHAMMED, J.

Dated 24-03-2005.

Nrg/skmr

..... REGISTRAR

Copy to:

1 The Chairman & District Collector,
APST. Co-operative Finance Corporation Ltd.,
Chilakalapudi, Machilipatnam.
2 The District Tribal Welfare Officer,
District Welfare Office, Machilipatnam.
Krishna District.

3 2CCs to G.P. for Social Welfare, High Court Buildings, Hyderabad,

(OUT).

4 2CD copies.